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August 27, 2013

Ms. Roylene Cunningham, OCE-127
Ms. Julie Vergeront, Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Ave., Suite 900
Seattle, Washington 98101

Re: Clearwater Paper Corporation's Response to CAA Section 114 Letter and Request for Extension of Time

Dear Roylene and Julie:

Clearwater Paper Corporation ("CLW") received EPA's Clean Air Act ("CAA") section 114 Information Request ("Request") on July 24, 2013. In light of the steep civil penalties that are threatened should CLW refuse to perform the sampling required under the Request, CLW will comply; however CLW raises several objections to the Request as set forth below and reserves all rights related to these (and any other) objections.

The Request demands that CLW perform sampling of process gases at several *internal* process locations that are not emissions points. The Request is ostensibly to measure the mass emission rate of methanol and to measure the emission rate of Total Reduced Sulfur ("TRS"); however the prescribed sample locations are process flow points between pieces of process equipment where gases may enter the bottom of the Kone Bin, may flow through Line D, and may exit the Bauer Valve to an exhaust chamber. These sampling locations are not emission points and are not "vents" that discharge to atmosphere as inaccurately labeled by EPA in the Request. Given the atypical locations of the sampling required by EPA, the anticipated timing, cost, and production disruption are also discussed below.

Clearwater's Objections to the Request. First, the required testing is beyond the scope of investigation permissible under the CAA. CAA §114 (a)(1)(D) explicitly addresses the agency's authority to sample *emissions*. While the Request labels the information sought as emissions, or from emissions points, or emissions units, the actual information EPA seeks is from *internal* process locations and is not emissions sampling. Despite EPA's word choice in the Request, the facts are that none of the sample locations are emissions points or vents where emissions first



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reach the environment, discharge to air, or release to the atmosphere.¹ Therefore, the information sought by the Request is outside the scope of EPA's authority to require sampling of emissions under the CAA §114(a)(1)(D).

CAA §114 (a)(1)(G) allows EPA to gather "other information" reasonably required. EPA apparently considers the prescribed sample locations to be reasonable for emissions rates measurements. The prescribed sample locations are neither designed nor installed as source test locations. CLW is not aware of any precedent where EPA required a regulated source to sample internal process gas streams flowing through equipment (at some distance from the emissions point to atmosphere) for purposes of determining compliance with emissions standards. These sample locations are obviously (see attached photos) not vented to atmosphere, and are not emissions units. Since the required testing is not from emissions points or vents, CLW will be required to install more than thirty sampling ports on otherwise enclosed pieces of process equipment to prepare for the sampling. Initial costs estimated for the sampling are \$100,000. To ensure the safety of employees and contractors, port installations and sampling preparation can

¹ Emissions are not defined in the CAA; however a commonly understood meaning can be inferred from definitions of "allowable emissions" or "air emissions" or "emissions rate" provided by EPA that emissions release to the air or atmosphere.

<http://www.epa.gov/region5/air/naaqs/definitions.html>
<http://www.epa.gov/oaqps001/community/glossary.html>

Vent is not simply defined in the CAA either, but a commonly understood meaning can be inferred from definitions of "fugitive emissions" "batch process vent" or "process vent" provided by EPA that a vent is an opening to air or atmosphere. 40 CFR §§63.2 and 63.101.

An emission point is defined as:

[A]ny part of a stationary source that emits hazardous air pollutants regulated under this subpart, including emissions from individual process vents, stacks, open pieces of process equipment, equipment leaks, wastewater and condensate collection and treatment system units, and those emissions that could reasonably be conveyed through a stack, chimney, or duct *where such emissions first reach the environment*. 40 C.F.R. § 63.441. [emphasis added]



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only occur while the plant is shut down for a period of several hours. A production disruption of this magnitude has significant additional cost impacts for the mill. For these reasons, the Request is beyond the scope of reasonableness under the authority granted by Congress in CAA §114(a)(1)(G).

CLW also objects to the required sampling because the results of process gas concentrations are irrelevant to determine compliance with any applicable emissions standard. Compliance with an applicable emissions standard can only be determined at a regulated point of compliance where emissions discharge to atmosphere. While the process flow EPA seeks to measure leads to the Kone Bin where sawdust is handled and fed to the digester system, and the Kone Bin is open to atmosphere, this location is not listed within the definition of “digester system”, does not constitute “other equipment serving the same function as the digester”, and is therefore not a regulated emissions unit under Subpart S.² In its definition, EPA listed the equipment it intended to regulate under Subpart S. Neither the Bauer Valve, the Kone Bin, nor Line D are listed and none “serve the same function” as the enumerated equipment. EPA guidance reconfirmed that the Kone Bin is not subject to regulation, except in one particular (and different) circumstance. The information EPA seeks under the Request cannot reasonably be applied to demonstrate whether emissions from the mill exceed an applicable emissions standard. Accordingly, because the *internal* process gases entering the bottom of the Kone Bin, the Bauer Valve, and Line D are not regulated under Subpart S, testing results from those process points will not be determinative of compliance with any enforceable emissions standards.

² A “digester system” includes:

[E]ach continuous digester or each batch digester used for the chemical treatment of wood or non-wood fibers. The digester system equipment includes associated flash tank(s), blow tank(s), chip steamer(s) not using fresh steam, blow heat recovery accumulator(s), relief gas condenser(s), prehydrolysis unit(s) preceding the pulp washing system, *and any other equipment serving the same function as those previously listed*. The digester system includes any of the liquid streams or condensates associated with batch or continuous digester relief, blow, or flash steam processes. 40 C.F.R. § 63.441 (emphasis supplied).



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In addition, CLW objects to EPA's presumed intention of comparing measured methanol concentrations to the EPA guidance value (0.0018 pounds of methanol per ton of oven-dried pulp). Although it was not explained in the Request, CLW assumes that the prescribed sampling is designed to enable EPA to determine whether the methanol concentration entering the bottom of the Kone Bin is consistent with the concentration relied upon by EPA in its March 31, 2000 guidance document when EPA recognized that certain emissions need not be controlled.³ Again, the information EPA seeks is unreasonable to apply even in that context. The concentration value referred to in EPA's guidance was not derived from nor verified by any sampling or other testing. That value was estimated by an engineering calculation during the development of the guidance without any sampling or other measured verification. The estimator noted to EPA that an exponential variation could be experienced in the estimated methanol concentration. Comparing the prescribed sampling at the CLW mill to an engineering estimate with accepted exponential variation to determine conformity with the guidance is unreasonable, unless EPA also considers the predicted variability in the methanol concentration and the operating conditions also outlined in EPA's guidance. Moreover, the methanol concentration value relied upon in the guidance is just that, *guidance*, and not an enforceable emissions standard. Accordingly, whether or not the concentrations measured by CLW match the value presented in the EPA guidance cannot solely be relied upon to determine the mill's compliance status.

For all these reasons, the information sought under EPA's CAA 114 Request is unreasonable and not determinative of whether CLW is in compliance with its Subpart S requirements. CLW requests that EPA reconsider the appropriateness and reasonableness of the Request and stay the compliance deadlines imposed by the Request while EPA is re-evaluating its legality.

Clearwater's Good Faith Efforts to Comply. Notwithstanding the objections set forth above, and in demonstration of CLW's good faith efforts to comply with the Request and to cooperate with the government on a settlement resolution of EPA's allegations, CLW promptly commenced evaluation of the Request upon receipt on July 24, 2013. To accomplish the work required by the Request, Clearwater requests extensions of the compliance deadlines consistent with the schedule estimated below. The following summarizes a preliminary schedule based upon discussions with Horizon Engineering:

³ *Questions and Answers for the Pulp and Paper NESHAP Second Volume* (40 CFR Part 63, Subpart S) dated March 31, 2000, pages 5-7.



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Date or Estimated Date	Activity
August 8, 2013	Horizon Engineering visited mill to observe sample locations and conduct preliminary evaluation
August 16, 2013	Horizon Engineering presented to CLW initial sketch of preparation, timeframes, and safeguards required for sampling
August 19 - ongoing	Horizon Engineering and mill engineers clarifying preparatory work needed to install sample ports to accomplish sampling
September 9 – 27, 2013	Previously scheduled mill shut down -- port installations and sample preparation work can be completed at this time
October 31, 2013	Estimated submittal of sampling protocol and notification to EPA (the Request #3); commence collection of thirty days of process data
November 30, 2013	Completion of EPA's review (the Request #3)
December 2 – 16, 2013	Estimated on-site sampling dates
February 14, 2014	Estimated submittal of sampling report to EPA

Based upon this schedule and assuming that preparatory work can be completed during the scheduled shut down, CLW requests extensions of the timeframes set forth in the Request to reflect these milestones. Working within this timeline avoids any other production disruption and cost associated with unplanned mill downtime. Please respond promptly to confirm extension of the compliance deadlines imposed by the Request.

Sincerely,

Krista McIntyre

cc: Elizabeth Loeb, U.S. Department of Justice
Lisa Carlson, Idaho Department of Environmental Quality
Marv Lewallen, VP - Environmental, Energy & Sustainability

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